

**Introduced by Senator Knight**

February 19, 2002

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An act to add Section 6385.5 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1510, as introduced, Knight. Sales and use tax: exemptions: fuel and petroleum products.

The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. That law provides various exemptions from that tax.

This bill would provide an exemption from that tax for the sale of fuel and petroleum products to air common carriers for immediate shipment outside this state for consumption in the conduct of their business.

Counties and cities are authorized to impose local sales and use taxes in conformity with state sales and use taxes. Exemptions from state sales and use taxes enacted by the Legislature are incorporated into the local taxes.

Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.

This bill would take effect immediately as a tax levy, but its operative date would depend on its effective date.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 6385.5 is added to the Revenue and  
2 Taxation Code, to read:  
3 6385.5. (a) Notwithstanding Section 6385, there are  
4 exempted from the computation of the amount of the sales tax the  
5 gross receipts from the sale of fuel and petroleum products to an  
6 air common carrier, for immediate shipment outside this state for  
7 consumption in the conduct of its business as a common carrier  
8 after the first out-of-state destination. To qualify for the exemption  
9 the common carrier shall furnish to the seller an exemption  
10 certificate in writing stating the quantity of fuel and petroleum  
11 products claimed as exempt that is to be consumed after reaching  
12 the first out-of-state destination. That certificate shall bear the  
13 purchaser's valid seller's permit number or valid fuel exemption  
14 registration number and shall be substantially in the form  
15 prescribed by the board. Acceptance in good faith of that  
16 certificate shall relieve the seller from liability for the sales tax.  
17 (b) "First out-of-state destination," as used in this section,  
18 means the first point reached outside this state by an air common  
19 carrier in the conduct of its business as a common carrier at which  
20 cargo or passengers are loaded or discharged, cargo containers are  
21 added or removed, fuel is bunkered, or landing or docking fees are  
22 charged.  
23 (c) "Immediate shipment," as used in this section, means that  
24 the delivery of the fuel and petroleum products by the seller is  
25 directly into an aircraft for transportation outside this state and not  
26 for storage by the purchaser or any third party.  
27 (d) Any air common carrier claiming exemption under  
28 subdivision (a) that is not required to hold a valid seller's permit  
29 shall be required to register with the board and obtain a fuel  
30 exemption registration number and shall be required to file returns  
31 as the board may prescribe if either the board notifies the carrier  
32 that returns must be filed or the carrier is liable for taxes based  
33 upon consumption of fuel erroneously claimed as exempt under  
34 this section. A common carrier required to hold a fuel exemption  
35 registration number shall be subject to all applicable provisions of



1 this part, Part 1.5 (commencing with Section 7200), and Part 1.6  
2 (commencing with Section 7251).

3 (e) An air common carrier claiming an exemption under  
4 subdivision (a), upon request, shall make available to the board  
5 records, including, but not limited to, a copy of a log abstract or  
6 a cargo manifest, documenting its transportation of the fuel or  
7 petroleum product to an out-of-state destination and the amount  
8 claimed as exempt. If the carrier fails to provide these records upon  
9 request, the board may revoke the carrier's fuel exemption  
10 registration number.

11 (f) The board may require any air common carrier claiming an  
12 exemption under this section and required to obtain a fuel  
13 exemption registration number to place with it any security that the  
14 board may determine pursuant to Section 6701.

15 (g) Pursuant to subdivision (a), any use of the property by the  
16 purchasing air common carrier, other than that incident to the  
17 delivery of the property to the carrier and the transportation of the  
18 property by the carrier to the first out-of-state destination and  
19 subsequent use in the conduct of its business as a common carrier,  
20 or a failure of the carrier to document its transporting the property  
21 to the first out-of-state destination, shall subject the carrier to  
22 liability for payment of sales tax as if it were a retailer making a  
23 retail sale of the property at the time of that use or failure, and the  
24 sales price of the property to it shall be deemed to be the gross  
25 receipts from the retail sale.

26 SEC. 2. Notwithstanding Section 2230 of the Revenue and  
27 Taxation Code, no appropriation is made by this act and the state  
28 shall not reimburse any local agency for any sales and use tax  
29 revenues lost by it under this act.

30 SEC. 3. This act provides for a tax levy within the meaning of  
31 Article IV of the Constitution and shall go into immediate effect.  
32 However, the provisions of this act shall become operative on the  
33 first day of the first calendar quarter commencing more than 90  
34 days after the effective date of this act.

